

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
(Attorney Docket № 14279US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial No. 10/675,490

Filed: September 30, 2003

For: PERSONAL MEDIA PROGRAM
PRODUCTION IN A MEDIA
EXCHANGE

Examiner: Patrick A. Ryan

Group Art Unit: 2427

Confirmation No. 5995

Electronically Filed on 11-JUL-2011

REPLY BRIEF

MS: APPEAL BRIEF-PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR 41.41, the Appellant submits this Reply Brief in response to the Examiner's Answer mailed on May 10, 2011, with a period of reply through July 11, 2011. Claims 1-37 are pending in the present Application. The Appellant has responded to the Examiner in the Examiner's Answer, as found in the following Argument section.

As may be verified in the final Office Action dated November 9, 2010 ("Final Office Action"), claims 1-37 stand rejected under 35 U.S.C. § 103(a). See the Final Office Action at page 7. To aid the Board in identifying corresponding arguments, the Appellant has used the same headings in the Argument section of this Reply Brief as the headings found in the Appellant's corresponding Brief on Appeal. The Brief on Appeal has a date of deposit of February 7, 2011.

STATUS OF THE CLAIMS

Claims 1-37 were finally rejected. Pending claims 1-37 are the subject of this appeal.

ARGUMENT

I-A. Independent Claims 1, 11 and 21

The Appellant stands by the argument made in the corresponding section of the Brief on Appeal (pages 7-20).

In response to Appellant's Brief on Appeal, the Examiner has primarily repeated his arguments stated in the Final Office Action. For example, the arguments stated in pages 15-17 of the Examiner's Answer are taken verbatim from pages 3-6 of the Final Office Action. The Appellant has already addressed these arguments in the Brief on Appeal. The Appellant will now address the few arguments, which the Examiner raises *de novo* in his Examiner's Answer.

As an initial matter, the Examiner's Answer has emphasized, in several places (e.g., first paragraph in p. 16 and first paragraph in p. 18), that Novak is being cited as teaching "creating metadata associated with existing media content." The Appellant, however, has not based its argument on Novak not teaching "creating metadata associated with existing media content." Instead, the Appellant argued (p. 9-10 of Brief on Appeal) that Novak does not disclose the *modifying* of existing media content (a point, which the Examiner has conceded at p. 8 of the Final Office Action). Additionally, the Appellant argued that Foreman does not teach "editing, at said first geographic location, said previously created metadata associated with said media content, said editing based on said additional media content," where the "additional media content" is used to modify the existing media content to produce a media program (also limitations,

which the Examiner has conceded Novak does not teach; See p. 8 of the Final Office Action).

The Examiner's Answer states the following in p. 17:

In response to Appellant's arguments in Brief Page 11 (Point #1), the Examiner is not asserting that Foreman teaches the claimed "editing ... " clause at Step 226 of Fig. 16, but rather the Examiner is citing this portion of Foreman to demonstrate a similar "creating metadata ... " step to that taught by Novak (as described above).

The above statement by the Examiner is contradicting his rejection in the Final Office Action. Firstly, "Point #1" in the Brief on Appeal (p. 11) argues that Foreman's "storyboard descriptions" are not "previously created metadata". It is Point #2 (p. 11-14) in the Brief on Appeal, and not Point #1, that argues that Foreman does not teach the "editing of previously created metadata" functionality recited in Appellant's claim 1. Secondly, contrary to the above citation, the Examiner has explicitly relied on steps 226-230 in Foreman's Fig. 16 to teach "metadata is associated with a media program" and "editing the previously created metadata (from step 226) is performed based on additional media content". Therefore, the Final Office Action has indeed asserted that Foreman (at Fig. 16) teaches the claimed "editing" functionality. The Appellant notes that p. 12 of the Brief on Appeal specifically argues that steps 228-230 (and not 226) do not disclose the editing of previously created metadata (as mentioned above, the Examiner relies on step 226 only to disclose previously created metadata, and not the editing of such previously created metadata).

The Examiner's Answer states the following in p. 18:

In response to Appellant's arguments in Brief Pages 11-12 (Point #2), the Examiner notes that, as summarized above, at Step 230 of Foreman, a

process of editing the previously created metadata (from Step 226) is performed based on additional media content ("description modifies its duration and pointer to reference the new clip description", as shown in Fig. 16 and described in Col. 10 Line 65-Col. 11 Line 2; with further reference to Col. 11 Line 3-Col. 12 Line 31). For example, **Forman teaches modifying existing metadata, such as titles (using titles tab Interface 154, as described in Col. 15 Line 40-Col. 16 Line 7; with further reference to Fig. 11). As presented above, the title of media content is within the scope of the claimed "metadata" and, once Step 230 of Forman is reached, the pre-planned outline and the video content have been synchronized**, therefore the Examiner submits that Forman demonstrates a process of editing previously created metadata.

The Appellant disagrees, especially with the above bolded portion of the argument. The Examiner is now alleging that Foreman teaches modifying existing media content, namely titles. This argument, however, is not supported by Foreman and, in fact, contradicts the reference. The Appellant points the Examiner's attention to the following citation of Foreman:

This information input through this interface is used, using known techniques, to apply the title to the video information and to display the effect in the display region 172. However, the video data file of the clip to which it is applied is not modified. **The titling information may be finally applied, for example, only when the video program is output in final form.** In this way, titles may be added and removed more easily.

(See Foreman at col. 15, lines 55-62; emphasis added). In other words, Foreman discloses that the titling operation is done only once, i.e., when the video program is in its final form. Therefore, even if we assume that the titling information is the "existing metadata", there can be no "modifying said existing media content" since Foreman creates the titling information only once, namely, when the video program is output in its final form. Foreman simply does not disclose any modification of the titling information.

Secondly, Appellant's relevant claim limitation recites "modifying said existing media content with additional media content". Not only Foreman does not disclose any "modifying" of the titling information, but Foreman also does not disclose that such "modifying" is based on "additional media content".

The Appellant respectfully submits that independent claims 1, 11 and 21 are allowable.

The Appellant also respectfully stands by the remaining arguments made in the corresponding sections of the Brief on Appeal.

CONCLUSION

The Appellant submits that the pending claims are allowable in all respects. Reversal of the Examiner's rejections for all the pending claims and issuance of a patent on the Application are therefore requested from the Board.

The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

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